IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

OHIO SECURITY INSURANCE)	
COMPANY, et al.,)	
Plaintiffs,)	
Tidilitiis,)	Case No. CIV-22-133-D
v.)	
)	
DAVID GRACE CONSTRUCTION,)	
INC., et al.,)	
D 0 1)	
Defendants.)	

ORDER

Currently pending before the Court is Plaintiffs' Motion for Summary Judgment [Doc. No. 17], which became fully briefed upon the receipt of their reply brief. With the reply, however, Plaintiffs submitted new factual material in support of their Motion. "Generally, the nonmoving party should be given an opportunity to respond to new material raised for the first time in the movant's reply." *Green v. New Mexico*, 420 F.3d 1189, 1196 (10th Cir. 2005); *see Beaird v. Seagate Tech., Inc.*, 145 F.3d 1159, 1164 (10th Cir. 1998). This is so because "Rule 56(c) requires the nonmoving party to be given notice and a reasonable opportunity to respond to the movant's summary judgment materials." *Beaird*, 145 F.3d at 1164.

IT IS THEREFORE ORDERED that Defendant Wilmer P. Orjuela may file a surreply brief within 7 days from the date of this Order, provided the brief does not exceed five pages in length and solely addresses new matter raised in Plaintiffs' reply.

IT IS SO ORDERED this 19th day of April, 2023.

TIMOTHY D. DeGIUSTI

Chief United States District Judge